

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i>)	
)	
)	
Plaintiffs,)	
)	No. 1:14-CV-254
v.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i>)	
)	
Defendants.)	

**MOTION FOR EXTENSION OF TIME TO FILE A RESPONSE TO
PLAINTIFFS' PRELIMINARY INJUNCTION REPLY MEMORANDUM**

Defendants respectfully move to extend their time to file a response to Plaintiffs' Reply Memorandum [Dkt. 64] by two weeks, up to and including February 2. The basis for this motion is as follows:

1. By Minute Order dated December 19, 2014, the Court provided that Defendants may file a response to Plaintiffs' reply in support of their motion for preliminary injunction ten days after that reply is filed. Plaintiffs filed their reply on January 7, 2015, after seeking an unopposed extension of time. Defendants' response to Plaintiffs' Reply Memorandum is therefore currently due Tuesday, January 20 (as the tenth day after January 7 is a Saturday, January 17, and Monday, January 19 is a federal holiday). *See* Fed. R. Civ. P. 6(a)(1)(C).

2. Plaintiffs' Motion for Preliminary Injunction is set for oral argument on Thursday, January 15, 2015, and since the date of the filing of Plaintiffs' reply, Defendants have had to devote significant time to preparing for that argument. Moreover, because counsel of record for Defendants (with the exception of local counsel) are traveling to the hearing from Washington,

D.C., necessitating two additional days of travel, Defendants have limited ability to work on their response to Plaintiffs' reply during the latter half of this week.

3. Plaintiffs' reply brief was 67 pages and included arguments to which Defendants have not yet had an opportunity to respond. Attached to their reply were 35 exhibits, all newly submitted, totaling 1,191 pages. Among these exhibits were numerous declarations, including declarations submitted by experts retained by Plaintiffs. Plaintiffs' opening brief in support of their Motion for Preliminary Injunction was 33 pages in total and included no declarations and, indeed, no exhibits. Accordingly, although Defendants as a matter of professional courtesy did not oppose a motion by Plaintiffs to exceed the 20-page limit for their reply, Defendants did not anticipate that Plaintiffs would submit voluminous materials for the first time on reply, just over a week before the date of the upcoming hearing.

4. Defendants respectfully submit that an extension of their deadline to respond to Plaintiffs' reply is necessary and warranted under these circumstances. Although Defendants do not concede that all of the material included for the first time in Plaintiffs' reply is germane or material to the legal issues presented by Plaintiffs' Motion (for example, because the new declarations do not set forth facts sufficient to meet the legal requirements for Article III standing), additional time is warranted to allow Defendants to evaluate the new material and to prepare an adequate and appropriate response.

5. Defendants intend to be prepared to address Plaintiffs' Motion for Preliminary Injunction at the hearing scheduled for January 15, 2015, including those issues and materials presented by Plaintiffs for the first time on reply. Defendants continue to believe that Plaintiffs' Motion can be resolved on the basis of oral argument and the parties' papers (including Defendants' forthcoming response to Plaintiffs' reply).

6. Plaintiffs will not be prejudiced by the two-week extension sought in this Motion, because U.S. Citizenship and Immigration Services (USCIS) does not intend to entertain requests for deferred action under the challenged policy until February 18, 2015, and even after it starts accepting requests, it will not be in a position to make any final decisions on those requests *at least* until March 4, 2015.

7. Undersigned counsel conferred with counsel for Plaintiffs but was unable to obtain their consent to this motion without conditions that Defendants could not agree to.

Dated: January 14, 2015

Respectfully submitted,

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/s/ Kyle R. Freeny
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Attorneys for Defendants

CERTIFICATE OF CONFERRAL

Pursuant to Local Civil Rule 7.1.D, undersigned counsel hereby certifies that she has attempted to obtain consent to this Motion from Plaintiffs' counsel, Arthur D'Andrea, beginning on the evening of Monday, January 12, 2015, and has had multiple communications with Plaintiffs' counsel since that time in an effort to reach an agreement. To date, Defendants have not been able to obtain Plaintiffs' consent without conditions to which Defendants cannot agree.

/s/ Kyle R. Freeny

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Extension has been delivered electronically on January 14, 2015, to counsel for Plaintiffs via the District's ECF system.

/s/ Kyle R. Freeny
Counsel for Defendants